

**PUBLIC WORKS
AND
PUBLIC TRANSPORTATION COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Public Works and Public Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Tuesday, **August 16, 2005.**

MEMBERS PRESENT:

Legislator Allan Binder • Chairman
Legislator Angie Carpenter
Legislator John Kennedy
Legislator Brian Foley
Legislator Ricardo Montano

MEMBER NOT PRESENT:

Legislator Peter O'Leary • Excused Absence

ALSO IN ATTENDANCE:

Mea Knapp • Counsel to the Legislature
Roz Gazes • Budget Review Office
Kevin Duffy • Budget Review Office
Charles Bartha • Commissioner • DPW
Ben Wright • Highway Department • DPW
Leslie Mitchel • Deputy Commissioner • DPW
Alexandra Sullivan • Chief Deputy Clerk • Legislature
Bill Faulk • Aide to P.O. Caracappa.
Ben Zwirn • County Exec's Office
Lynne Bizzarro • County Attorney's Office
Clifford Hymowitz • Transportation Advisory Board

Edward Romaine • Suffolk County Clerk
Dorene Erb • Birchwood Civic Association
Eugene Wishod •
All Other Interested Parties

MINUTES TAKEN BY:

Alison Mahoney • Court Stenographer

MINUTES TRANSCRIBED BY:

Donna Catalano • Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 1:44 P.M.*)

CHAIRMAN BINDER:

Rise for Pledge led by Legislator Carpenter

SALUTATION

LEG. BINDER:

The meeting of the Public Works, Transportation Committee will come to order. We don't have any public hearings, so I'm going to get straight to the cards. First up is County Clerk Edward Romaine.

MR. ROMAINE:

Thank you very much, Mr. Chairman. I won't take your time, because I see you have a long agenda, but I had did want to appear in a very parochial interest in supporting Resolution 1894 of 2005. This is a resolution that would appropriate funds for the reconstruction of Route 58 in the Town of Riverhead. Now, fortunately, Riverhead is our County Seat, so we get Legislators out there sometimes to my building, sometimes to shop at Tanger, but anyone that has traveled on 58, and I've worked in that town for 16 years, can tell you that it is a bottleneck, that you go from two lanes to one lane and then briefly to two lanes again and then back to one lane and then you have the circle, and things get backed up.

What's so amazing to me, and I just want to point this out, we're issuing, I guess, one and a

half million dollars worth of County serial bonds. That money probably will be used for an engineering study. To do the engineering study, and I checked into this, I called the Commissioner of Public Works, and I don't want to misquote him, but my impression was just to do the engineering study and the acquisition would take somewhere in excess of four years. To actually do the work would probably take another two to four years. So we're eight years away from improvement. And anyone that's traveled out there knows what has happened on Route 58 with all the commercial development that the town has allowed that has just clogged traffic. So obviously, I'm supporting this. What I was surprised •• and I just want to say it for the record, is that according to the rating, the priority rating, this only got a 52. Anyone that's traveled on that road will tell you obviously there's a dichotomy between the priority rating and what's actually happening on County Road 58. It's in immediate need of additional lane capacity. And I would like to see the circle stay, because I use that every day, my mother's in the nursing home over there, at least the circle moves the traffic. You'd probably have to go with a two lane circle.

So I am definitely in favor of this, and I just wanted to appear and put myself on record. But to say, by voting on this, understand that we're probably a minimum of six to eight years away to seeing actual construction be commenced and completed on County Road 58.

LEG. BINDER:

Legislator Carpenter.

LEG. CARPENTER:

Thank you. Thank you for coming down, Ed, because it's so funny, I was on County Road 58 yesterday coming from Southold and ••

CHAIRMAN BINDER:

What were you doing out there?

LEG. CARPENTER:

I was out in Southold because I'm on the Cornell Board, and they had a very interesting project kicking off yesterday. But the area east of the circle, I could not believe when I first came upon it, it was bumper to bumper at 12:30 in the afternoon, you know, for a mile.

MR. ROMAINE:

It gets worse.

LEG. CARPENTER:

I figured, well, once we pass the circle, and then again, like you said, it's one lane, two lanes, one lane, it was constant.

MR. ROMAIN:

And the next thing is go to the local side streets which aren't the County's responsibility. They're all clogged by the people trying to avoid 58.

LEG. CARPENTER:

Exactly. It's really unfortunate.

MR. ROMAIN:

Thank you for allowing me to appear, but just understand that this is the first step that, you know, I'm going to do everything in my power, hopefully after January, to accelerate this process, because I think 58 has lingered too long, and it is a major traffic jam. Finally, before I leave, I have walked just about every unit in Silver Ponds Condominium, and I noticed that Resolution 1819 is directing the Suffolk County Sewer Agency to make recommendations to form a sewer district. This is something that I also greatly support, it's a definite need, and would be a great benefit to the people that inhabit Silver Ponds Condominium. Again, Mr. Chairman, thank you very much and good luck to all.

CHAIRMAN BINDER:

Thank you. Any other questions? Thank you, Mr. Romaine. Next up is Eugene Wishod.

MR. WISHOD:

Thank you, Mr. Chairman. I'm here on Resolution 1874. The Suffolk County Sewer Agency at its March 21 meeting had approved the connection of two restaurants; Famous Daves and _Carrabas_ , which is both on the north side of 347 near Terry Road to the sewage treatment of New County Sewer District Number 4 • Smithtown Galleria. The formation of that district had been approved by the Legislature in December of last year. The sewer agency approved this connection subject to the completion of formalities dedicating all and necessary plans and easements to the sewer district.

That's been in the process for many, many months, and it's very, very close to consummation. So once the transfer of documents are completed, which as I say will happen very soon, these two restaurants can connect. What's important to us, and I represent the owner, the landlord of the two restaurants, is they're presently being served by cesspools, by a ceptic system, which was approved by the Department of Health. But in order to get a ceptic system, the owner of the property had to sterilize other properties until the ceptic systems were removed and the connection to the sewage treatment plant was effected.

So time now becomes of the essence because the formalities of the transfer to complete the formation of the sewer district is hopefully by the end of the month or shortly after Labor Day. So I'm just here to give the background and answer any questions any Legislator may have ••

LEG. KENNEDY:

Mr. Chair.

MR. WISHOD:

•• on the connection of those two restaurants.

CHAIRMAN BINDER:

Legislator Kennedy and then Legislator Vilorio•Fisher.

LEG. KENNEDY:

Thank you. Good afternoon, Counselor. I have just a couple of general questions about the capacity and, I guess, and the outflow that's anticipated from each one of these restaurants. They lie in my district, and also, I see that we have representatives from DPW, so I have question about the Galleria itself as to whether or not it is up, operational and the anticipated outflow from these two restaurants is within, I guess, the capacity that was originally envisioned for the waste treatment plant.

MR. WISHOD:

I will address it, and I will turn it over to Ben Wright. The total capacity is 13,590 from the two restaurants combined.

LEG. KENNEDY:

Is this a joint ceptic system that is serving both restaurants, because they are separated only by one building? They both lie on 347 on the north side there.

MR. WISHOD:

I understood they were separate. Ben?

MR. WRIGHT:

Yes.

LEG. KENNEDY:

So it's separate temporary ceptic systems servicing each one of these restaurants at this time?

MR. WISHOD:

Yes, that's correct. They're separate. The existing capacity based on design flow of the entire Galleria, STP, is about a 180,000 gallons. There's plans afoot to increase that capacity to service other properties, by way of example, the Water Mill Restaurant. There isn't capacity to do that now. The plant would have to be expanded. That application to the Sewer Agency can't be made until the formalities on the formation of the district are ready. There is sufficient capacity for Famous Daves, there is sufficient existing capacity for both restaurants based on the actual flow. There is not for the second restaurant presently based on design flow, and we're in the process of trying to convince the Department of Public Works and the agency that there's is a sufficient record of actual flow over the past three or four years that we could safely use actual flow.

In any event, the resolution adopted by the agency recites there's sufficient capacity, there will be, if not immediately, eventually, to be encompassed by the anticipated expansion of the district. We're confident that we'll be able to make a sufficient record for DPW and the Health Department to sustain the immediate connection of both. But certainly there is existing capacity for the one.

LEG. KENNEDY:

Thank you, Counselor. I appreciate your characterization. Now, I guess, I'll turn to Mr. Wright. Can you just •• and I appreciate the indulgence of my colleagues •• can you tell me •• set the framework for me. Galleria is an up, operating sewage treatment plant and has been so

for how long?

MR. WRIGHT:

I believe it's probably about 15 years, maybe a little bit less than that. But when the facility was designed •• when the facility was designed, you round the numbers up, so there was additional capacity, basically a factor of safety in the plant. So there, as Mr. Wishod indicated, capacity for one of the restaurants and a good percentage of the second restaurant. And we are going to consider the information that they provide to us to see if both can be connected at this time rather than wait for expansion that will be coming some time in the future.

LEG. KENNEDY:

Absent these two restaurants, Galleria serves primarily the condominium and free•standing home complex that's located on Terry Road there; is that correct?

MR. WRIGHT:

There's also a CVS and a day•care center that's right adjacent to them that also is being served.

LEG. KENNEDY:

Is all of the land in the district essentially, is it built out at this point?

MR. WRIGHT:

It is.

LEG. KENNEDY:

It is? So the only thing that we would be looking at connecting is these two additional restaurants.

MR. WRIGHT:

Yes.

LEG. KENNEDY:

Is there any •• what are the cost factors or the cost aspects with connection from the two restaurants?

MR. WRIGHT:

Fifteen dollars per gallon per day of capacity is the rate that's by law, and with the flow that they're anticipating, it's about \$204,000 that would be contributed to the district. And that would go into the district fund, not to be used for anything else.

LEG. KENNEDY:

This is lump sum for initial connection or this is ongoing revenue to the district?

MR. WRIGHT:

It's a lump sum that's paid at the time the agreement is signed, and then those people •• the restaurants would also pay the annual user charge along with everybody else •• actually, plus a 5% administrative fee because they're a contractee to the district.

LEG. KENNEDY:

Is the anticipated expansion of Galleria contemplated at this point regardless of these two restaurants connecting, or does that somehow play into the anticipated expansion?

MR. WRIGHT:

No. We have had a meeting on those interested in the possible expansion, but it doesn't relate really to these two restaurants.

LEG. KENNEDY:

So these are separate issues for consideration. Counsel, I just have one other question. You may choose or may not choose to go ahead and divulge it, I'm just curious, what is the parcel that the owner had sterilized, temporarily sterilized?

MR. WISHOD:

I don't know. I mean, I know, but I don't have it with me. I don't know exactly where it's located.

LEG. KENNEDY:

That's a frank answer.

MR. WISHOD:

But there are two parcels sterilized for each of the two temporary ceptic systems. They each required a sterilization in order for the Board of Health to approve a ceptic system. I have seen a description of it, but I don't have it at my fingertips.

LEG. KENNEDY:

Are you aware of where these parcels are, Ben?

MR. WRIGHT:

No, I am not.

LEG. KENNEDY:

Okay. That's it, Mr. Chair. Thank you.

CHAIRMAN BINDER:

Legislator Viloría•Fisher.

LEG. VILORIA•FISHER:

Thank you for coming down. Actually, I think I'm going to direct my question to Mr. Wright, because I'm a little bit confused about something, Ben. You stated that the capacity was more than sufficient for Galleria, the capacity of this sewer district, there was plenty of capacity for the Galleria.

MR. WRIGHT:

Yes.

LEG. VILORIA•FISHER:

And you were asked if the expansion anticipated providing a need for these two restaurants, and you said that the expansion wasn't to provide the capacity for these two. Then why are we doing the expansion, for what purpose and for what area?

MR. WRIGHT:

Well, at this time, we're not anticipating an expansion. There has been discussions, preliminary discussions, with others, as Mr. Wishod indicated, with the Water Mill, possibly a convention center that they're going to build along side of it, but that hasn't formally gone to the Sewer

Agency. And it really can't until the district is formed. And as indicated in this resolution, this resolved clause says once the district is formed, then these two restaurants can connect. And that's very close to being formed, but it's not a district.

LEG. VILORIA • FISHER:

Sewer district four is not formed.

MR. WRIGHT:

No.

LEG. VILORIA • FISHER:

It is it undergoing public hearing.

MR. WRIGHT:

That's taken place already we're in the last phase. The title has to be transferred to the County.

LEG. VILORIA • FISHER:

Did the issue of the connection to these restaurant come up at all at the public hearings for the formation of the sewer district?

MR. WRIGHT:

I don't believe it did.

MR. WISHOD:

No. Whether the district is formed or not, is really a matter of semantics. I mean, it's my legal understanding the district was formed when the Legislature adopted the resolution in December of last year, the •• retroactive to that resolution. What has •• what has not been done is the formalities of the deed, dedication of easements and other things to the district. If the district were not legally in existence, it could not accept the dedication of the deed and the necessary easements. So I believe that the district is in legal existence capable of receiving this.

On your question of capacity, there is presently 9,016.4 gallons of capacity available based on the design flow of the apartments, office buildings and condominiums that are presently

connected. The two restaurants need 13,250, you're about gallons short. But we're trying to persuade the regulatory authorities that based on actual flow over these many years, there's sufficient •• more than sufficient capacity to allow the immediate connection. So if we were unsuccessful, yes, the expansion of the district, the contemplated expansion will be necessary to serve that second restaurant. It will also be necessary to serve other properties in the area, I mentioned the Water Mill, we've been in negotiations with them. That's 25,000.

LEG. VILORIA • FISHER:

Are you right across from Maureen's Kitchen; is that right?

MR. WISHOD:

No. This is on 347, near Terry Road.

LEG. VILORIA • FISHER:

On the 347. Okay. I was thinking of Terry Road.

MR. WISHOD:

There are two restaurants ••

LEG. VILORIA • FISHER:

Maureen's Kitchen is further south on Terry Road. When you mentioned CVS, I thought that ••

MR. WRIGHT:

Well, it is right across the street from it, CVS is across the street from Maureen's Kitchen.

LEG. VILORIA • FISHER:

From Maureen's Kitchen. And CVS is part of this sewer district?

MR. WRIGHT:

Yes.

LEG. VILORIA • FISHER:

Okay. I just want to ask Counsel about that response. When is the sewer district formed, when we vote on it, or when all of the deeds and all the contracts are signed?

MS. KNAPP:

I suppose the cute answer is both. I do think that the action by the Legislature is the legal act that forms the sewer district. However, like any other legislative act, we authorize the completion of the documents in this body that are necessary to make all of the filings. And I assume that what has not been done yet is just compiling the documents and making the filings; is that true or not?

MR. WISHOD:

Precisely so. And I will defer to that answer. It really is a combination of the two. I'm just making a technical point that the district is there to receive the deed by virtue of the Legislators •• Legislature's resolution creating the district.

LEG. VILORIA • FISHER:

Thank you.

LEG. KENNEDY:

Mr. Chair, just one follow•up.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

This is a question for Mr. Wright. Again, knowing very little about the operation of sewage treatment plants and having had some contact in my office already about one of these restaurants in particular, is there anything that's going to alter or require any modifications to the existing plant based on the discharge and flow from these restaurants, one, in particular •• I mean, the barbecue place must put off tremendous amounts of grease fats and other types of things, is the existing plant constructed to accommodate this waste without modification or do we require additional modifications?

MR. WRIGHT:

We require the restaurants to have the properly sized grease trap, and that will protect the plant from receiving, you know, inordinate amounts of grease that could interfere with the process. But typically, the right sized grease trap properly maintained and serviced will not

cause a problem at the plant.

LEG. KENNEDY:

Do you know at this point that, in fact, both these restaurants have the adequate equipment on site?

MR. WRIGHT:

I can't answer that. I believe they should, but we haven't issued a permit to them yet. Once it's a district, our Industrial Waste Unit that deals with any non residential connection would go out to the restaurant and make sure that they have a properly sized grease trap.

LEG. KENNEDY:

And if not, then they would require them to expand and upgrade?

MR. WRIGHT:

Yes, their grease facilities, yes.

LEG. KENNEDY:

Okay. All right. Thank you, Mr. Chairman.

CHAIRMAN BINDER:

Thank you. Any other questions? If not, thank you.

MR. WISHOD:

Thank you, Mr. Chairman.

CHAIRMAN BINDER:

Next is Dorene Erb, Birchwood Civic Association.

MS. ERB:

Good afternoon. I'm here to represent the Birchwood Civic Association and support Resolution 1829. I have lived in the community for 29 years, and I know for a fact that the Nicolls Road area that you talk of is very noisy. You can hear the cars and the trucks. It sounds like a speedway. They race through it. There aren't too many lights. At the intersection of Greenbelt

Parkway up to the Expressway, there are no lights whatsoever, and the cars go down there at 90 miles an hour.

I lived next to Islip Speedway as a child. It sounds like just like that. I know the community south of Sunrise Highway as well have a problem with the noise. And our organization is part of Keep Islip Clean and Keep America Beautiful. And we have cleaned up the corners of Nicolls Road and Greenbelt Parkway, and this is part of a noise pollution problem that we would also like to resolve.

CHAIRMAN BINDER:

Thank you. Any other questions? If not, thank you. Clifford Hymowitz.

MR. HYMOWITZ:

Chairman Binder and Members of the Committee, thank you for the opportunity to address you today. I come before you today to update you on the activities of the Transportation Advisory Board. As a designated Chairperson of the board, it is my opinion that the most pressing need of the board is to fill the vacant positions on the board, which I have listed here which I will submit for the record.

I offer my assistance however required to fill these positions as expeditiously as possible. I would like to briefly outline for you what I believe are some of the long and short-term goals of the board. Long-term is developing a framework for action, identifying a strategy to shift away from providing rides to managing mobility through coordination. The strategy coordinates human service agencies that support transportation with public and private transit providers, meeting the needs of the community members to access health care, jobs or job training education and social networks, coordinating transportation systems, also increase the ability of government officials to make the most efficient and effective use of limited resources.

Second thing is maintaining an effective communication between the board and this committee, provide a vehicle for this committee to get public input on items recommended by the committee. I think that's a really important one, and I'm willing to work with anybody from the committee or your designee to try to work out a mechanism for communication back and forth so that we are working on issues that you feel are important and that we can express to you issues that we think are important.

On the short-term basis, we're looking at doing rider surveys, open communication with other advisory boards. I have gone and I've located over 20 advisory boards that the County has, and ever day another one pops up. I happened to pick up the wrong agenda, and I notice that there's •• there's a •• somebody got reappointed to an advisory board that I didn't know about, the Suffolk County Vocational Education and Extension Board. The other day I had a meeting with Lynne _Wyant_ who's the head of traffic safety for Brookhaven Town. She informed me that we have a Traffic Safety Board that meets the third month •• third week of every month, and they deal with issues that we should be having joint communication on.

And so I think that can be one of our main initiatives, to open dialogue to let other advisory boards know that we exist so that we can keep them apprised, like, for example, right now, thanks to Suffolk County Transit, the Suffolk County SCAT brochure is now available in Spanish. What better place than to go to the Hispanic Advisory Board to let them know and have then disseminate the information? So I think there's great value in opening this dialogue between the different advisory boards.

The other one is that we're actively trying to recruit an intern from a local college to assist us in developing a report that we could provide to you, the Legislature. If any of have you input of what you would like to see in this report, please get in touch with me.

In conclusion, I would like to take this opportunity to update the committee on the results of dialogue between concerned citizens of public transportation in Suffolk County, Simon Properties, Smith Haven Mall and Suffolk County Transit. We have been negotiating to achieve a mutual agreement of the amenities and access to the mall that the proposed transit center will receive as a result of the renovation plans for the mall. I am hoping that the success and mutual benefits of the transit center will provide incentive for other shopping areas in Suffolk County to consider the same.

We have a lot of other malls that provide access as hubs for people making switches, and I'm hoping that this model will set a bar for other ones to want to do the same thing. And I plan on keeping the committee up-to-date on what's happening. And I want to thank Suffolk County Transit for all the assistance they've given, technical assistance, to ensure that there's right paths, right-of-ways, enough paths for buses to line up, have the proper shelters. So I want to thank Suffolk County Transit for that.

And I also want to just say in conclusion that Simon Properties •• I not exactly sure why •• but they've been very cooperative. And I think a lot of the credit deserves to go to the people here who gave me letters of support, but also, to be on the record, to thank Mr. _Ruberous_ of the Smithtown Planning Board. I think he single handedly, throwing his support our way, has validated it and has really brought the issue for the forefront. So on the record, I want to thank him.

I've also left with the Clerk a copy of today's agenda that we had from the Transportation Advisory Board, which includes the minutes from our last meeting as well as issues that we went over. So if anyone wants to get copies, it will be available. And last, unfortunately, I have to present to you a letter of resignation from the board from Mr. Steve Nelson. Mr. Nelson is relocating off the island, so he'll no longer be able to serve, which unfortunately, brings another vacancy to the board. I hope that maybe we can get some recommendations. I have submitted resumes to Mr. O'Leary's Office, and they have told me we should be starting to do interviews in September. I thank you very much.

LEG. FOLEY:

Question. Hold on. You're not going to get off that easy.

LEG. VILORIA • FISHER:

Actually, Cliff, mine isn't a question, but just an expression of appreciation, because whenever we do have transit questions in my office, you're always available to come in and speak with us. You were with me on my bus ride when we met with the manager of Simon Properties, and that's where we began to plan that hub. And you have really stuck with it and made a difference. So I want to thank you for your real dedication to this.

MR. HYMOWITZ:

Thank you very much.

LEG. FOLEY:

Mr. Chairman.

CHAIRMAN BINDER:

Legislator Foley.

LEG. FOLEY:

Thank you, Mr. Chairman. And I and the constituents that I represent also want to thank Cliff. You have done marvelous work in the field of public transit, you always have had and continue to have a chock full of ideas that can be applied to improving public transit. And we just •• what you are going doing now with TAB, Transportation Advisory Board, is really important to get that, let's say, revitalized and moving forward. So we want to thank you as well. We know that in the future the TAB Board is going to continue to play a very important role in the decision making body of this committee, Public Works Committee, but by branching out to other advisory boards, that's a great idea. You know, we've talked about that for a long time, I'm glad to see you are following through on that. Thank you.

MR. HYMOWITZ:

Okay.

CHAIRMAN BINDER:

Thank you.

MR. HYMOWITZ:

Thank you.

CHAIRMAN BINDER:

Okay. We're going to go to the agenda.

TABLED RESOLUTIONS

1440, to promote fuel efficiency by requiring the purchase of hybrid vehicles for Legislative use. I make a motion the table, seconded by Legislator Kennedy. All those in favor? Opposed?

LEG. FOLEY:

Opposed to tabling.

LEG. BINDER:

TABLED. (VOTE:4•1•0•1) (Opposed: Legis Foley)

(Not present: Legis. O'Leary).

1597, accepting and appropriating federal aid (80%), state aid (10%) and County funds (10%) in connection with the purchase and installation of bus shelters. I think was •• there's still a question of this small amount being •• I don't know, Ben •• maybe, Ben, you can come up and ••

LEG. FOLEY:

Mr. Chairman, could we also have the Commissioner come up?

MR. ZWIRN:

Good afternoon, Mr. Chairman. With respect to the next, 1597 and 1598, the County •• we haven't changed the bill. I think you have submitted your own version.

CHAIRMAN BINDER:

We were supposed to, we talked about doing that.

MR. ZWIRN:

I think you did.

CHAIRMAN BINDER:

Okay. That will be coming.

LEG. CARPENTER:

Motion to table.

CHAIRMAN BINDER:

Motion to table by Legislator Carpenter, seconded by Legislator Kennedy. All those in favor? Opposed? **Tabled (VOTE:5•0•0•1) (Not present: Legis O'Leary).**

1598, amending the 2005 Capital Budget and Program and authorizing planning funds in connection with the equipment for public transit vehicles • Automated Vehicle

Locator System, accepting and appropriating federal aid (80%), state aid (10%) and County funds (10%). Same motion, same second, same vote. **Tabled (VOTE:5•0•0•1)**
(Not present: Legis O'Leary).

1819, directing the Suffolk County Sewer Agency to prepare reports and make recommendations necessary to form a sewer district at Manorville Silver Ponds in the Town of Brookhaven. Motion by Legislator Kennedy, seconded by Legislator Carpenter.

LEG. FOLEY:

On the motion.

LEG. BINDER:

On the motion, Legislator Foley.

LEG. FOLEY:

Commissioner, it's not coming from a department, it's coming from a Legislator. Could us just comment on it, please?

COMMISSIONER BARTHA:

Well, with the approval of the Legislature and the sewer agency, the department would certainly undertake a study to determine what kind of condition this treatment facility is in, how much it would cost for the County to operate it, and then we would make a recommendation to the sewer agency and to the Legislature.

LEG. FOLEY:

Just to follow up. Is it in non compliance with State permits and/or County Health or DPW permits?

COMMISSIONER BARTHA:

I don't know that at this time. The Health Department monitors, not ourselves.

LEG. FOLEY:

Okay.

CHAIRMAN BINDER:

Okay. Any other questions? If not, we have a motion and a second. All those in favor?
Opposed? 1819 is **approved (VOTE:5•0•0•1)**
(Not present: Legis O'Leary).

1829, amending the 2005 Capital Budget and Program and appropriating \$100,000 in funds for a Sound Wall Study @ CR 97 Nicoll's Road between Montauk Highway and Furrows Road.

LEG. VILORIA•FISHER:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Viloría•Fisher, second by ••

LEG. KENNEDY:

Mr. Chairman, on the motion.

CHAIRMAN BINDER:

Let me •• let's see if we have ••

LEG. FOLEY:

Second, Mr. Chairman.

CHAIRMAN BINDER:

I've got a second. Let me •• if Ben wanted to pop in here and give some comments on the bill, and then we can have Legislative questions.

MR. ZWIRN:

I'll certainly defer to the Legislator.

CHAIRMAN BINDER:

Go ahead, Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. Having some experience with sound studies, I'd like to have an opportunity to ask Chairman Bartha at this point where, in fact, the process is for CR 67, Motor Parkway Sound Study, which my colleagues here on this body have actually adopted two resolutions which were vetoed by the administration and subsequently overridden. The most recent one, as a matter of fact, I believe was in June. And so all of the appropriations that were necessary for this sound study have been gathered. The RFP process was conducted. There was a winning or accepted applicant, as a matter of fact, that's responded back and a constituent of mine has been reported to say that at this point there is absolutely no intention on the part of the administration to go ahead and do this study any time soon; is that true?

COMMISSIONER BARTHA:

The •• well ••

MR. ZWIRN:

Maybe I can answer that probably better than the Commissioner, because the contracts go up through the 12th floor. I think ••

CHAIRMAN BINDER:

Is that where they go?

MR. ZWIRN:

You always wondered where they were? That's where they are.

CHAIRMAN BINDER:

We were wondering where those contracts went.

MR. ZWIRN:

Where the black hole of contracts are. All I can say is that I know that it is in the pipeline.

LEG. KENNEDY:

We heard extensively about pipelines just before.

LEG. FOLEY:

Some are longer than others I guess.

MR. ZWIRN:

Yeah, I know. It's not the same pipeline, hopefully. But there are a lot of projects that are in the works and I know this contract is up there among them. And I don't think the Commissioner •• I think the Commissioner has done everything he can do as far as this goes, it's just •• the administration just has to pull the trigger on it.

LEG. KENNEDY:

Okay. So then ••

MR. ZWIRN:

It hasn't happened yet.

LEG. KENNEDY:

Hold on a second, please, if you can. Because obviously, when I get to this point •• and I have to ask my colleagues to indulge me for a second •• I begin to get confused because I hear terms like pipeline, I hear terms like correspondence from a department, I hear about the contract process. Where is this exactly at this point as far as selection of a vendor, a contract to go ahead and retain that vendor and a commencement date for this sound study to go forward?

It's usually four signatures on a contract, the last time that I worked on one out of the County Attorney's Office; it's a department, it's a vendor, it's a County Attorney as to form and it's the Chief Deputy County Executive. First, is there a contract?

MR. ZWIRN:

Charlie can probably answer that one.

COMMISSIONER BARTHA:

Well, a contract was prepared and had some signatures on it and it ••

LEG. KENNEDY:

Some; what's some?

COMMISSIONER BARTHA:

It had my signature on it.

LEG. KENNEDY:

Okay, so we have a departmental, that's usually the first one in the process. The next one it usually goes to is •• my recollection is it's got to go to •• County Attorney is for form and Chief Dep, so it's got to be the vendor; is a vendor signed on it yet?

COMMISSIONER BARTHA:

The vendor has signed the contract.

LEG. KENNEDY:

Okay, so now we've got two, all right. Has the County Attorney signed on it yet as to form?

COMMISSIONER BARTHA:

I believe the County Attorney has signed.

LEG. KENNEDY:

Okay, so now we've got three. Where's the Chief Deputy's signature?

MR. ZWIRN:

Well, apparently it's not on the contract.

LEG. KENNEDY:

Okay. So ••

MR. ZWIRN:

I don't mean to make light of it, but I think that's ••

LEG. KENNEDY:

But the fact •• no, no, no. So then just for the record at this point so we understand it. We do have a contract, we do have three of the four required signatures on it, there is one who is unsigned; when will that be signed?

MR. ZWIRN:

I can't tell you exactly when that will happen.

LEG. KENNEDY:

Okay, now I have to defer to Counsel. Counsel, having had two resolutions passed, vetoed and then approved, and having three of the four signatures necessary on a contract in order to go forward, what is our recourse at this point, what happens; where are we at this point?

MS. KNAPP:

I suppose that the recourse available to the body is to bring an Article 78 Proceeding, a Mandamus proceeding, if that is the will of the Legislature. There are other more direct opportunities for the Legislature to send messages to the administration.

LEG. KENNEDY:

Am I missing something here as far as this part of the process, Counsel? Is this a ministerial process or is there substance involved here?

MS. KNAPP:

It appears that if the process has been fully implemented, that is in terms of RFP award, preparation of contract, the County Attorney's approval, then it becomes ministerial.

LEG. KENNEDY:

Thank you. My question is simple. I'd like an answer from the administration when the fourth signature is going to be on there.

I now can relate that, in fact, there is a vendor who's been selected, unfortunately they're not bound yet by full execution of the contract, but there is a vendor who's been selected, correct?

COMMISSIONER BARTHA:

Selected by the Department of Public Works? Correct, yes.

LEG. KENNEDY:

Thank you. I appreciate that. I would like that answer, please.

MR. ZWIRN:

Okay.

LEG. KENNEDY:

Thank you. Okay, thank you, Mr. Chairman.

MR. ZWIRN:

Just with respect to 1829.

LEG. LINDSAY:

All right.

MR. ZWIRN:

Which isn't going to make anybody any happier, but the County Executive has been consistent. And I believe that even his Mother would be affected positively by this particular sound barrier and still the County Executive will not put family above his principle.

CHAIRMAN BINDER:

Let me ask you a question, as long as you're saying that. She would •• his mother would be specifically affected by it.

MR. ZWIRN:

I believe that's ••

CHAIRMAN BINDER:

Then maybe should he and/or his Chief Deputy recuse themselves from the process in this and allow the contract to go forward with just a resolution because maybe we have a conflict of interest? You've just stated on the record that the County Executive ••

MR. ZWIRN:

The County Executive is against this sound wall, so if there's any conflict of interest, he's resolving it on the side of the taxpayers.

CHAIRMAN BINDER:

But you might say •• well, maybe his mother doesn't want it. In other words, I don't know what his mother wants, but she's directly affected.

MR. ZWIRN:

No, no. In my conversations with the County Executive, she has sought a sound barrier there while County Executive Levy was on ••

CHAIRMAN BINDER:

Does she talk to him anymore?

MR. ZWIRN:

•• the Legislature and he would not move forward at that time.

And it's not that there isn't a problem with sound and that people are not complaining for a good reason. The problem is that with respect to Legislator Kennedy's district, the County Executive vetoed it twice because he knew what would happen, is that there would be a plethora of resolutions coming forward because they're not the only people in the County who are affected by the traffic.

CHAIRMAN BINDER:

Here's the problem, Ben, here's the Legislative problem. The County Executive has vetoed it, for whatever reason, and he says a plethora of those coming and all these things; all well and good. But there's a question, just governmental, a basic governmental question, the reason that the United States Government passed the Budget Empowerment Act because of President Nixon deciding that he was going to, on his own, impound money that the Legislature, the Congress, decided to spend.

There were vetoes, the vetoes were overridden. It is now the policy of the County, even if it's not the will of the County Executive, it is the policy of the County to go forward with this, like it or not. So what you're saying to us on the record is the County Executive is going to do what he couldn't do by veto, he couldn't sustain in a veto override vote, he's going to use the power of his ability not to sign a contract, to impound basically the contract and not allow that to go forward. And maybe that's something that the Legislature needs to deal with as a body, not in a partisan way; again, this is another question that has to be •• I mean ••

MR. ZWIRN:

No, I'm not saying that. I'm not saying that he won't sign the contract, I'm saying he hasn't signed the contract; there's a difference.

CHAIRMAN BINDER:

Well, you know, here's one of the questions. There are a lot of contracts up there.

MR. ZWIRN:

That's correct.

CHAIRMAN BINDER:

They're not just Republican concerns, they're Democrat concerns. I've spoken with colleagues on the Democrat side as well who have contracts up there. There's no stated reason why they're up there, there's no stated reason why they're not •• they've gone through the proper channels, they've gone through the proper departments, they've been signed off, everybody is happy, everybody is ready. And there are agencies out there who can't get their money because they're on one person's desk, he decides through, in a sense, veto power, though it's the will of the Legislature. And so I'm thinking •• and I think maybe as a body, not as Republicans and Democrats •• I'm leaving, you know, I'm out of here, you guys are going to have to deal with this after I'm gone. It would seem to me that we're going to have to •• we should do some legislation that takes that power out of the County Executive's office, unfortunately; and it is unfortunate that we would have to do that. But I would think that as the Congress had to act in its •• to preserve its power of policy, we are losing •• and this body will continue, I think, as some of us leave, some of the more senior members leave •• this body is losing its power to create policy in this County because when the County Executive disagrees with that policy, he uses the power of the signature on contracts, or the withholding thereof, to create policy over the will of the budget that we've passed, even if it's over vetoes.

We're looking at 1829 right now, Legislator Lindsay. We can pass this today and unless •• now, if this gets signed, then maybe it's because there was an ability of one Legislator to get it over another, but obviously there is •• it might get vetoed and then we can override it, and then if we overrode it, then what? Then in the end you get nothing because of one signature, even if it goes out to bid, if the department itself looks over the contract, creates a contract, signs it, goes through Counsel, goes through all of the review that really needs to be done by the experts. We obviously know that the Chief County Executive •• Chief Deputy County Executive is not an expert in all of these fields, in everything. And so for him to say that he has some important review that needs to be done, where all the experts have reviewed these contracts and they get to the desk of the Chief Deputy and then all of a sudden they sit there. And this is

just not •• this is not the only contract, there is a literal pile, I know of many contracts. Agencies are being hurt. There are kids in Wyandanch that I know are not getting or may not get services this year, kids in Wyandanch, enrichment services, educational services that they were using last year that were very good for them, but they won't get it this year because their contract is sitting on the desk of Mr. Sabatino.

MR. ZWIRN:

I'm not aware, Mr. Chairman, of any ••

CHAIRMAN BINDER:

Well, I'll explain that, I'll tell you afterwards.

MR. ZWIRN:

I understand, but I'm not aware of any contracts or any inquiries on contracts that have not been signed aside from this particular one, but I know there are a number of capital ••

CHAIRMAN BINDER:

I know someone, there's another Legislator ••

MR. ZWIRN:

I understand, there are a number of ••

CHAIRMAN BINDER:

I asked the Legislator to come and I know he's spoken to you personally.

MR. ZWIRN:

But there are a number of capital project ••

CHAIRMAN BINDER:

Ben, I know a Legislator spoke to you personally about a particular contract because it affects his district. I'm telling you, I know there are a number of contracts that Legislators have, we've had these •• you know, Legislator Lindsay is holding his mouth closed because he's trying to hold in because he knows and I know you know ••

LEG. LINDSAY:

I want to talk, you know.

CHAIRMAN BINDER:

I'm going to give you a chance.

MR. ZWIRN:

Can I just get one last ••

CHAIRMAN BINDER:

I can't help myself here.

MR. ZWIRN:

Just one last quick comment.

CHAIRMAN BINDER:

It's very frustrating and what's happening is you're using ways to override the will of the Legislature. And you know, unfortunately the County Executive really has to give in to policy after there's been a super majority, that's government, that goes back to the Founding Fathers; unfortunately, that's not what's happening.

MR. ZWIRN:

But there are a number of capital projects that are really in the pipeline, that are getting •• there's about 350 to \$400 million worth of contracts that are up in the County Executive's office that they are sorting through trying to get through them. So in all fairness, this is not the only contract that is before the Chief Deputy or the County Executive. I mean, there's \$400 million worth of projects going on in this ••

CHAIRMAN BINDER:

Wait a minute.

COMMISSIONER BARTHA:

What that includes, I believe, is the workload in Public Works which is one of the considerations here, I understand.

CHAIRMAN BINDER:

No, but this contract has been signed by Public Works, you put it together, you did a contract, you signed off on it, it's gone through every other level. Tell me, maybe you can be specific, what does the Chief Deputy County Executive, after all these people have looked at these contracts, what is his job to look at? Maybe you can enlighten us, maybe we don't understand, maybe I'm sitting •• I don't understand. Specifically what does a Chief Deputy County Executive look at before he •• because that's taking weeks or months on contracts, explain to me what he looks at. He's not an expert in barriers, he's not an expert in legal form. Yes, he's an attorney, but that's not his job, it goes through the County Attorney, that's their job. So it goes through all these steps, all the experts have said this is a good contract, they've all signed off, what does he •• that we don't understand, what does he look at that takes him •• that he drills down on so we should understand what he's doing.

MR. ZWIRN:

He looks at everything. And I'm serious, he just looks at everything. He reviews what the County •• he reviews every step of every contract, as you know because he served as Legislative Counsel for so many years, he reviews everything. I mean, I work directly under him, he's remarkable, he puts in more time than anybody who's ever worked in government probably in the history of mankind.

CHAIRMAN BINDER:

And we saw that ••

MR. ZWIRN:

But he reviews everything.

CHAIRMAN BINDER:

We've seen that. We've seen that but the problem is, the problem is when one person has \$400 million worth of contracts and agency contracts and every contract, one person, after all the experts in each of the areas have gone through it, your legal experts have gone through it, your departmental experts have gone through it; everyone has gone through it. And then you have one person, this is the funnel, okay, so everyone hears all in different places and experts and it funnels into one small hole, do you think not that government can grind to a halt, or at

least important functions of government may be overlooked, fall through the cracks, not be seen, not gotten to in a reasonable time? When you say to me that \$400 million of capital contracts are sitting on one person's desk, it's gone through everything else but this one person, is that a way to run a government? I don't know of any •• as much as he •• he could be super human •• and I have to tell you, I've seen him work it's, you're right, unbelievable how much he works, not a question. But no matter how super human he is, it is an impossibility for a two•and•a•half billion dollar government to have everything funneled through one person. It's just too much for any human being, even, even Paul Sabatino, and that's true.

MR. ZWIRN:

He would debate that with you, I'm sure.

CHAIRMAN BINDER:

Well, he would debate that. He would debate that and I've seen him work.

MR. ZWIRN:

He said there's not enough •• he's got too much time on his hands.

CHAIRMAN BINDER:

Right. We ••

MR. ZWIRN:

But it does go through the County Exec's Office, he's the person who handles it.

CHAIRMAN BINDER:

No, but it goes through his ••

MR. ZWIRN:

But for the most part ••

CHAIRMAN BINDER:

But you know what, if we identify a problem, maybe we have to say that's no longer okay. And maybe in a bipartisan fashion, and I would hope that it would be bipartisan because it's institutional. Because this ••

MR. ZWIRN:

Well, it's going to be bipartisan because this bill •• we have two bills on table for sound barriers today that are sponsored by Democratic Legislators who are going to get the same treatment that Legislator Kennedy's bill did. It wasn't a question of politics then, it's a question of policy and it's a question of cost.

CHAIRMAN BINDER:

I understand.

MR. ZWIRN:

It's not a question that the public is asking for something they need relief from, it's just a question of how many of these can we put up around the County at County taxpayer expense.

CHAIRMAN BINDER:

Ben, all that's wonderful. But Ben, the County Executive spoke with his veto pen twice. Twice the collected leadership of the County in terms of Legislative leadership ••

MR. ZWIRN:

I think once.

CHAIRMAN BINDER:

Bipartisan.

MR. ZWIRN:

I think there's only one, I think one veto was sustained and one was overridden.

CHAIRMAN BINDER:

I think we •• but we overrode the veto.

MR. ZWIRN:

The first time I think it was sustained.

CHAIRMAN BINDER:

But we overrode the veto.

MR. ZWIRN:

Legislator Crecca.

LEG. KENNEDY:

One times two; Crecca's was overridden, mine was overridden.

CHAIRMAN BINDER:

Right.

LEG. KENNEDY:

Veto, veto, override, override.

CHAIRMAN BINDER:

No, no, they both were overridden.

MR. ZWIRN:

Didn't once •• I think the first one was sustained.

CHAIRMAN BINDER:

No, they were both overridden. As far as I know they were both overridden. Now, the point is even if it was once ••

MR. ZWIRN:

No, I think the first time it was sustained, the second •• and then he refiled it.

CHAIRMAN BINDER:

But even if it's once, it literally doesn't matter. If the Legislature speaks on an issue, then he said to the County Executive, "Whatever you think is wonderful, but we think differently. We represent the people, we are the policymakers, so you need to now execute what the law is," and it's not being executed and that's a real problem. I don't know if my colleague is going to do it and, like I said, we only have a few months, but it would seem to me we need a bill, we need a bipartisan bill and we need to reform government so that there's no longer a funnel. That there is another way to execute contracts, that may be no longer that the Chief Deputy

County Executive's name is necessary, I don't know, I mean, I'm thinking out loud. But I have to tell you, the funnel theory only gives another absolute veto without a chance of override which violates every basic concept that was thought of by our Founding Fathers in creating government in the United States. And that •• obviously it doesn't bother the County Executive, he likes that ability, but that's not proper government.

I'm going to let •• let me let Legislator Lindsay take a shot at this, he's been holding his mouth and his lips and he's been pursing them.

LEG. LINDSAY:

Well, I would just like to say we went to County Road 66, we went to the black hole, we went to piercing the 12th floor, the pipeline, all that stuff; all I'm trying to do is to get in the pipeline.

CHAIRMAN BINDER:

You don't care if it's signed? Even if we override the veto, you don't care if we ever get a contract, you just want it ••

LEG. LINDSAY:

Well, let me get to the first step of getting it in the pipeline and it sounds like the County Executive is going to veto it and then we'll have to address it from there. But Nicolls Road is a road that is an extremely •• heavily traveled, extremely noisy road; if there's any place in Suffolk County that needs or cries out for sound walls, it's this stretch of roadway. And I would just appeal to my colleagues, let me get into the pipeline and pass this out of committee.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

I would, first of all, argue that notwithstanding the Executive's slippery slope fear, or the Chief Deputy County Executive's slippery slope fear, the physical location for County Road 67 is unique probably almost in any place in Suffolk County. With it's convergence of a State highway, with a Federal highway and with a County roadway, all probably within less than two thousand, three thousand feet of one another. The sound that emanates from there may be County sound, may be state sound, may be Federal sound, we don't know.

I also know that •• and I believe this is another question I have for the Chairman. There is a project that is being undertaken right now immediately west of Sagtikos to go ahead and construct a Wald, a Target and I believe another large, big box store; it is phase II of a construction project. I understand that there is some work that's being done on Crooked Hill Road to facilitate that project; is that true?

COMMISSIONER BARTHA:

Well, what we're requiring the developer to do is to mitigate the impact on the County roads.

LEG. KENNEDY:

That would be what, the Expressway North Service Road and Crooked Hill Road?

COMMISSIONER BARTHA:

No, we're requiring at Commack Road and Crooked Hill Road, at that point to square off the intersection so that Crooked Hill approaches at a right angle to Commack Road.

LEG. KENNEDY:

How did that process come about, Charlie?

COMMISSIONER BARTHA:

Through the permit process where we worked with the town. The town, when they first get an indication of a proposed development, they advise us, we make recommendations to them as to what we believe is necessary. And then in cases like that where they actually have a curb cut on to a County road, we issue a permit and in their permit we require certain mitigating measures, and in some cases we require a traffic study to identify where those mitigation measures would be. In this case, the project was certainly large enough that the EIS included a traffic study.

LEG. KENNEDY:

Okay. So I'll go back to my original statement, now I'll say it flat out. It's my belief that this is unique. And as a matter of fact, it seems like we kind of participated in the process to go ahead and help put more sound right around in this area, vis•a•vis some of our willingness to go forward with curb cuts and the other things for this construction project.

I am going to ask one more time on the record, I would like an answer if I can and I'd like to get it soon, when I can anticipate that the final signature is going to be put on that contract for this project. Thank you.

CHAIRMAN BINDER:

Not to get way off the subject because I was having some other discussions, you're saying that •• just to go back, the Wal•Mart box store in Commack, they need •• they need curb cuts; do they need County curb cuts?

COMMISSIONER BARTHA:

They need a curb cut on to Crooked Hill Road and we are requiring them to square off the intersection of Crooked Hill and Commack Road.

CHAIRMAN BINDER:

What if they didn't have the curb cut? Could they do the project if they didn't have the curb cut? Do they need that curb cut?

COMMISSIONER BARTHA:

I'm not sure if they have access to other roads or not, I'd have to look.

CHAIRMAN BINDER:

I'd like Counsel to put in a resolution prohibiting a curb cut over there and directing the Commissioner of Public Works not to do a curb cut at that area, at least I'm going to attempt that.

COMMISSIONER BARTHA:

The permit has been issued for that work.

CHAIRMAN BINDER:

I'd like you to direct the permit to be withdrawn in the resolution. And I think the County Executive, from what I saw •• which, by the way, I never did criticize, I want to put this on the record. Though he criticized me at a press conference with the candidate running for my seat, I never made a comment about the County's lack of notification or any lack of notification or anything that the County Executive did, I want that for the record. I had no •• out of my

mouth, there was no criticism. Well, just so you can relay it back, there was never a criticism on that. I think the County acted properly in the way it notified and how it notified under the law and I had no problem with how the County Executive acted or his office or his offices or the Planning Board, Planning Commission. So I don't know why I was kind of included in a •• I know it was a press conference in front of the Dennison Building, I just want to make that clear, at least to the County Executive you should bring that back, that I had no criticism of him; if someone else did or a candidate did, then that's between the candidate and the County Executive. Beyond that, I had no questions. I don't know, I would like to explore the legality of withdrawing the permit at this point. Legislator Foley.

LEG. FOLEY:

Yeah, thank you. Notwithstanding the concerns that have been raised by Legislator Kennedy and others, I hope that those concerns don't •• are not tied to this particular resolution. I think the resolution stands on its own merits. And similar to the support that many of us gave Legislator Kennedy's bill, I would also like •• I would hope that we would support this particular bill as well. Notwithstanding the differences some Legislators have with the Executive, but to determine, you know, the importance of this bill in and of itself as opposed to what the Exec might do or might not do with the bill once we approve it or if we have to override the veto. So I just wanted that as part of the record.

CHAIRMAN BINDER:

We have a motion and a second. Legislator •• oh, sorry, Commissioner.

COMMISSIONER BARTHA:

Just briefly, and I'm sure this isn't going to change anyone's mind, but the cost of a 15 foot high noise barrier, exclusive of right•of•way acquisition and landscaping, comes to \$4 million a mile. So just so you're aware of what we're talking about here.

CHAIRMAN BINDER:

Legislator Kennedy.

LEG. KENNEDY:

Thank you. I appreciate that, as a matter of fact. And I know we've discussed this before. But I think what I'm going to do, at least as to the project that this body has already gone ahead and approved twice now and the RFP process has gone through and we got a contract and we

got three out of four signatures on it, it is yet to be determined where this sound is actually coming from.

So notwithstanding your price quote, notwithstanding your estimation for construction, by the foot or the yard or the mile, there may be an opportunity to go ahead and at least engage in dialogue with either the State or the Feds.

Now, I've heard they don't retrofit, they don't rebuild after the fact, but that's not what we're looking at as far as gathering the data, getting the science and having something specific to work on rather than hearsay and obfuscation. That's the issue. Thank you.

CHAIRMAN BINDER:

All right, we have a motion and a second. I'm going to make a motion to table, at least for a cycle, so we can talk about the concerns here.

LEG. KENNEDY:

Second.

CHAIRMAN BINDER:

Second by Legislator Kennedy.

LEG. FOLEY:

Just on the motion of tabling.

CHAIRMAN BINDER:

On the motion, Legislator Foley.

LEG. FOLEY:

Mr. Chairman, just as I had mentioned a few moments ago. You know, Legislators do have concerns with the Executive Branch on a number of matters, but that should not color the pros and cons of a piece of legislation that's before us today. You can have your differences with the Exec, but at the same time move forward with legislation that you either sponsored yourself or that you supported when other Legislators sponsored similar pieces of legislation.

So this was what my concern was listening to the remarks earlier, that after we made the motion to approve we got off on this whole other issue, a related issue but not directly germane to this bill. And those comments going back and forth evidently have colored the judgment of some on the committee to table a bill whose merits should stand on its own, not whether or not the Executive is having problems executing contracts with other pieces of legislation. So I would hope that we could pass this bill, as we did the last •• as we did with Legislator Kennedy's bill the last time that it came before this committee earlier in the year; there's no difference.

CHAIRMAN BINDER:

In response to that. I think there's a grave problem between institutions. It's not ••

LEG. FOLEY:

Right, I agree.

CHAIRMAN BINDER:

It's not a partisan problem, we have an institutional problem. This •• and I've said this over and over on the record during this year. This institution, it's allowing itself to become minimized, it's allowing itself to become less of a policymaker and less important in the process. I am going to be not here in a few months, as other Legislators, as you, Legislator Foley. It would be a terrible thing for us to leave behind an empty shell of an institution that has so much less to say in Suffolk County policy.

So I think we disagree, which is fine, that's what government is about. We disagree in terms of the importance of this opportunity to discuss changing the whole system. I don't know that I want to •• I don't know that it's time to throw more legislation into this black hole which doesn't come out on the other side of a contract, I understand that some would like their things in the pipeline. But I think from •• I think that we need to sit down as an institution in a bipartisan way and decide how we're going to recapture the ability of this institution to be preeminent in policy and the last word after an override; that is not happening. It's not happening with contracts that we have an interest in on the Republican side and the Democratic side, on both sides, and it's a form of government that is particularly noxious to the basic principles that this country was formed under. And that's what's really upsetting, we're watching something that happened that the Founding Fathers warned about over and over again. They warned about George Washington wouldn't become a President again because he didn't want to become

a king. And I think we have to •• we have to be really careful of this, there's a very careful balance of power between Executive and Legislative branches that are set up in governments from the most local governments all the way to the Federal.

LEG. FOLEY:

I understand. Could I just •• Mr. Chairman, if I may, follow•up?

CHAIRMAN BINDER:

That's fine.

LEG. FOLEY:

Just follow•up.

CHAIRMAN BINDER:

That would be fine. I think we have to deal with this and I think this is where we start.

LEG. FOLEY:

If I may, Mr. Chairman?

CHAIRMAN BINDER:

Sure.

LEG. FOLEY:

Thank you. You have outlined why you intend to table it. I mean, that same, let's say, criteria could be used by all of us on a number of bills. I think what's equally, if not more dangerous, you've outlined the danger of the Legislature losing its influence vis•a•vis the County Executive, but I think another dangerous precedent, if you will, is that if we're going to make judgments on bills dependent upon whether or not the County Executive fully executes the bill on a timely basis.

CHAIRMAN BINDER:

Let me just jump in for a second.

LEG. FOLEY:

And that to me I think is also •• would be a major concern and a whole new way of judging the ••

CHAIRMAN BINDER:

But let me tell you the difference.

LEG. FOLEY:

The pros and cons of legislation.

CHAIRMAN BINDER:

Right, there's a point, you're saying judging the pros and cons; I don't think by tabling we're judging the pros and cons. If we were to defeat it today, I think in the end we'd end up having •• we would, unfortunately, judge a pro and con. I would rather, if I have •• I would rather table this today rather than defeat it, but that's probably what would happen. I would rather defeat it •• ah, table it rather than defeat it and this way we don't have to judge the pros and cons and we can have some time to sit down, I think, as a body, not as partisans. I think we can sit down as a body and sit and start talking and have a dialogue on how we're going to protect this institution for the future.

LEG. FOLEY:

But that's separate from this bill, though.

CHAIRMAN BINDER:

No, I think it's part of it.

LEG. FOLEY:

It's separate from the bill.

CHAIRMAN BINDER:

That's where we differ; that's fine.

LEG. FOLEY:

Well, it's separate from the bill and I think it's a dangerous precedent to set. Plus, if you table it today, we won't be meeting again till the very end of September for the next committee

cycle, so you are •• by tabling it, there is a judgment being made, too, when you table a bill, not just if you defeat it or approve it.

CHAIRMAN BINDER:

It's not defeated, it will still be here; even if it's still September, it's here.

LEG. FOLEY:

Well, tabling is a judgment call as well. I think it's a mistake.

CHAIRMAN BINDER:

We have Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

Actually, I believe that tabling it runs contrary to all of the arguments that you've just posited. Which is that as a body, as a Legislature, we have, very loudly I believe, voiced our policy that the Legislator representing a district hears the discomfort or the problems within his or her district, particularly these noise issues with sound barriers. It comes to us with a proposal and we have supported in a bipartisan manner those legislative initiatives and we have supported them to the extent that we have overridden vetoes. If we are to substantiate that that •• that those policies have been moving in the right direction, then tabling a piece of legislation that has come from the Legislator representing his district, I believe will be running counter to that policy and weakening this body and weakening this branch of government.

If you are using arguments regarding the movement of a contract, a signing of a contract to defeat a Legislative proposal, then it is you who is inserting a ministerial activity into how we judge our Legislative resolutions, and I don't believe that that should enter the argument. We should be looking, we've spoken •• we've listened to speeches for about an hour, there certainly has been discussion, certainly not enough discussion about this particular bill which is what is before us, but there has been broad discussion going from the Washington Administration to the Nixon Administration to the Levy Administration.

LEG. FOLEY:

A lot of history.

LEG. VILORIA • FISHER:

And I appreciate, as a non-history major, the edification here. However, I believe if we're going to be consistent policymakers, we should try to be consistent policymakers and to provide that kind of support to our colleagues no matter what side of the aisle they are on.

LEG. FOLEY:

Here, here.

CHAIRMAN BINDER:

We have a motion and a second. All those in favor? Opposed?

LEG. FOLEY:

Opposed.

LEG. VILORIA • FISHER:

On the motion to table? Opposed.

LEG. FOLEY:

Opposed to tabling.

LEG. LINDSAY:

Opposed.

CHAIRMAN BINDER:

You're opposed to tabling?

LEG. LINDSAY:

Three-two, you lost.

CHAIRMAN BINDER:

We don't have a motion to table, that's defeated.

LEG. FOLEY:

Motion to approve.

CHAIRMAN BINDER:

Motion to approve.

LEG. VILORIA • FISHER:

Second.

CHAIRMAN BINDER:

All those in favor?

LEG. FOLEY:

Aye.

LEG. LINDSAY:

Aye.

CHAIRMAN BINDER:

Are you on •• all of a sudden •• how did you get out here, Legislator Lindsay? I keep hearing aye down there.

LEG. VILORIA • FISHER:

He's sitting in for Angie.

CHAIRMAN BINDER:

We have Legislator Viloria•Fisher, Legislator Foley. I'm going to abstain.

LEG. KENNEDY:

I abstain.

CHAIRPERSON CARPENTER:

And Legislator Kennedy will abstain; it's **defeated (VOTE:2•0•2•2 Abstentions: Legislators Binder & Kennedy • Not Present: Legislators O'Leary & Carpenter).**

LEG. LINDSAY:

Okay, I'll reintroduce it.

1831, implementing the Water Quality Protection Program for the Connetquot River in the Town of Islip. Motion to table was requested by the sponsor, seconded by Legislator •• Legislator Kennedy. All in favor? Opposed? 1831 is **tabled (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1846, appropriating funds in connection with the County share for participation in the reconstruction of CR 3, Pinelawn Road, from the vicinity of Ruland Road to the Long Island Expressway, Town of Huntington. I will make a motion to approve, seconded by Legislator Foley. All in favor? Opposed? 1846 is **approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1847, appropriating funds in connection with the acquisition of lands for the construction of right turns on CR 3, Wellwood Avenue, Town of Babylon.

LEG. FOLEY:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by myself. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1848, appropriating start•up funds in connection with the reconstruction of CR 46, William Floyd Parkway, Town of Brookhaven. Motion by Legislator Viloría•Fisher, seconded by Legislator Foley.

LEG. FOLEY:

On the motion, Legislator Foley.

LEG. FOLEY:

Commissioner, can you tell us where along the parkway this is, 1848?

COMMISSIONER BARTHA:

I'm just trying to catch up with you here.

CHAIRMAN BINDER:

Can you tell us what actually start•up funds •• just to jump in so you can make it one big question. What exactly they mean by start •• up funds.

COMMISSIONER BARTHA:

Start•up funds allows the public hearing and advertising processes to go forward to acquire property, and this is for •• in the vicinity immediately south of the Long Island Expressway, this railroad bridge.

LEG. FOLEY:

Motion.

CHAIRMAN BINDER:

We have a motion and a second already. All those in favor? Opposed? **Approved (4•0•0•2)** (Not Present: Legis. O'Leary and Legis. Carpenter).

1849, appropriating start•up funds in connection with the drainage improvements on CR 76, Townline Road, Towns of Islip and Smithtown. Motion by Legislator Kennedy, second by myself. All those in favor? Opposed? **Approved (4•0•0•2)** (Not Present: Legis. O'Leary and Legis. Carpenter).

1850, appropriating start•up funds in connection with the reconstruction of CR 17, Carleton Avenue, Town of Islip. Motion by Legislator Kennedy, seconded by Legislator Foley. All in favor? Opposed? **Approved (4•0•0•2)** (Not Present: Legis. O'Leary and Legis. Carpenter).

1851, appropriating funds in connection with the acquisition of land for improvements to CR 80, Montauk Highway between NYS Route 112 and CR 101, Patchogue, Yaphank/Sills Road, Town of Brookhaven. Motion by Legislator Foley, seconded by Legislator Viloría•Fisher. All in favor? Opposed. **Approved (4•0•0•2)** (Not Present: Legis. O'Leary and Legis. Carpenter).

1852, amending the 2005 Capital Budget and Program and appropriating funds for the acquisition of land for the reconstruction of Deer Park Avenue East, CR 66, Town of

Huntington. I will make the motion, seconded by Legislator Kennedy. All those in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1853, appropriating funds in connection with the median improvements on various County Roads. Motion by Legislator Foley, seconded by Legislator Kennedy. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1854, appropriating funds in connection with the Firearms Training Section Drainage Project. Motion by Legislator Kennedy, seconded by Legislator Viloría•Fisher. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1855, amending the 2005 Capital Budget and Program and appropriating funds in connection with the County share for participation in the reconstruction/widening of CR 3, Wellwood Avenue Bridge over the Southern State Parkway, Town of Babylon.

LEG. FOLEY:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by myself. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1856, amending the 2005 Capital Budget and Program and appropriating funds in connection with the rehabilitation of St. Andrews Bridge on CR 39, North Road, Town of Southampton. Motion by Legislator Viloría•Fisher, I think she's most east, seconded by Legislator Kennedy. All those in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1857, appropriating funds in connection with the rehabilitation of Shinnecock Canal Bulkhead, Town of Southampton.

LEG. FOLEY:

Motion.

CHAIRMAN BINDER:

Motion by Legislator Foley, seconded by Legislator Vilorio•Fisher. **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1858, appropriating funds in connection with intersection improvements on CR 96, Nicolls Road at Lower Sheep Pasture Road, Town of Brookhaven. Motion by Legislator Foley, seconded by Legislator Vilorio•Fisher. All in favor? Opposed? **APPROVED. (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1863, amending the 2005 Capital Budget and Program and appropriating funds in connection with the reconstruction of CR 7, Wicks Road, from CR 67, Motor Parkway, to CR 13, Crooked Hill Road, Towns of Islip and Smithtown. Let me ask on this, is this ••

LEG. FOLEY:

Motion.

CHAIRMAN BINDER:

•• does this have anything to do with those box stores?

COMMISSIONER BARTHA:

No. It's a project we had planned for a long time along Wicks Road. We've been working with Legislator Carpenter on this.

CHAIRMAN BINDER:

Motion by Legislator Kennedy, seconded by Legislator Foley. All those in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1874, authorizing execution of agreement by the Administrative Head of Suffolk County Sewer District No •• 4, Galleria with Jado's 2 restaurants. Motion by Legislator Kennedy, seconded by Legislator Foley.

LEG. VILORIO•FISHER:

Question on motion.

LEG. BINDER:

Legislator Viloria•Fisher, go ahead. I feel a little bit confused about this, Commissioner. If there is only 9000 •• there's capacity for 9000 gallons, and these two restaurants are going to require 13,000, how can we approve this and have it move forward? There was an explanation, but I didn't find it a satisfactory explanation.

COMMISSIONER BARTHA:

I came in at the tail end of that, so I will have Ben Wright answer that.

MR. WRIGHT:

The applicant is looking to demonstrate that the existing flows are well below the design flow, and we have reviewed this kind of information in the past and agreed that there is extra capacity in the facility. That's what's going on at this time.

LEG. VILORIA•FISHER:

But that hasn't been completed, has that been determined?

MR. WRIGHT:

No, it hasn't yet.

LEG. VILORIA•FISHER:

Then I think we should table this until we get those figures and see if, in fact, the flow that's being •• that's there now is not at what had been estimated earlier and that there would be capacity for these two restaurants.

MR. WRIGHT:

Yes. I would only point out that, you know, it's approximately 4,000 gallons out of 180,000. You know, it's roughly two percent, which is, you know, not typically a big issue. But, yes, we go by the exact numbers. It's not there yet.

LEG. VILORIA•FISHER:

Well, I'm going to make a motion to table.

CHAIRMAN BINDER:

I have motion to table. Is there a second? There is no second on the motion to table. We have a motion to approve.

LEG. FOLEY:

Second.

CHAIRMAN BINDER:

We have motion to approve by Legislator Kennedy, seconded by Legislator Foley. All those in favor? Opposed?

LEG. VILORIA • FISHER:

I'm opposed to approval.

CHAIRMAN BINDER:

1874 is defeated.

LEG. KENNEDY:

Can I ask that we recall that? We had a motion to approve, we did not get sufficient vote?

CHAIRMAN BINDER:

No, we didn't. We need four votes to approve.

LEG. KENNEDY:

Can we go back to reconsider for tabling?

CHAIRMAN BINDER:

You have to have Legislator Vilorina Fisher ••

LEG. VILORIA • FISHER:

I would like to reconsidering it for tabling?

CHAIRMAN BINDER:

We have a motion by Legislator Vilorina•Fisher to reconsider, seconded by Legislator Kennedy. All those in favor? Opposed? Approved. 1874 is now before us. We had a motion that failed for lack of a second. Would that preclude a new motion to table, since there was never a

motion fully made because there was never a second on it? I'm just •• have to ask Counsel. I'm trying to think of whether it precludes •• normally a motion that fails is preclude, though this is a motion that wasn't defeated because it didn't have a second. I will take whatever you got on this, Counsel, cause I don't remember doing this. I should, but I can't. I can't think of what Robert's would say on this.

LEG. KENNEDY:

I'll make the motion to table.

CHAIRMAN BINDER:

No. The problem is •• the question is if a motion to table only cycle is in order because whether a motion to table actually failed or should it be to a date certain, that would be after the motion •• in other words, now it might have to be two meetings, because of a failure of a motion. You can repeat a motion that fails.

LEG. FOLEY:

It didn't fail, because ••

CHAIRMAN BINDER:

That's why I'm asking Counsel.

LEG. FOLEY:

The motion didn't fail because there was •• there's really no motion since there was no second.

CHAIRMAN BINDER:

We'll consider this a lack of a motion. Motion by ••

MS. KNAPP:

You should entertain the motion to table.

CHAIRMAN BINDER:

Thank you. Legislator Kennedy makes a motion to table, seconded by Legislator Foley.

LEG. FOLEY:

Reluctantly table.

CHAIRMAN BINDER:

All those in favor? Opposed? 1874 is **TABLED** also reluctantly. **(4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1875, permitting the Westhampton Beach Fire Department to purchase fuel from the County.

LEG. FOLEY:

Explanation.

CHAIRMAN BINDER:

Maybe Counsel can •• or actually, I don't know. Maybe the Commissioner can do it.

COMMISSIONER BARTHA:

We have several agreements like this. As you know, we have an automated fuel system, and what we charge is a premium of 10% on top of our fuel cost to, right now, Cornell Cooperative Extension, Suffolk County Cooperative Library System. We have an agreement also with the Village of Westhampton Beach and the Town of Brookhaven. This would allow them access to our pumps, which pump automatically, then we would simply bill them the amount of the fuel cost plus 10%.

CHAIRMAN BINDER:

Ten percent. Okay. We have a motion by Legislator Foley, seconded by Legislator Kennedy. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).** We have to help these Westhampton Beach Fire guys.

1878, appropriating start•up funds in connection with intersection improvements on CR 67, Long Island Motor Parkway in the vicinity of Adams Avenue, Town of Smithtown. Motion by Legislator Kennedy, seconded by myself. All in favor? Opposed? **APPROVED (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1879, appropriating start•up funds in connection with intersection improvements on CR 31, Old Riverhead Road, at CR 80, Montauk Highway, Town of Southampton.

Motion by Legislator Foley, seconded by Legislator Kennedy. All in favor? Opposed?
Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).

1880, appropriating start•up funds in connection with the reconstruction with a portion of CR 12, Oak Street in the Village of Amityville, Town of Babylon. Are these going to get signed by Mr. Sabatino? No. No. Forget. I don't want to go there again.

MR. ZWIRN:

That's right behind Legislator Kennedy's bill.

CHAIRMAN BINDER:

I will make a motion, seconded by Legislator Foley. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1881, amending the 2005 Capital Budget and Program and appropriating funds for the acquisition of land for the reconstruction of CR 16, Portion Road at Hans Boulevard, Town of Brookhaven.

LEG. FOLEY:

Motion.

LEG. VILORIA•FISHER:

Second.

CHAIRMAN BINDER:

Motion by Legislator Foley seconded by Legislator Fisher. _***_ approved. (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).

1885, amending the 2005 Capital Budget and Program and appropriating funds in connection with the energy conservation • various County facilities.

LEG. VILORIA•FISHER:

Motion.

CHAIRMAN BINDER:

I had a request from the Presiding Officer that we discharge this without recommendation. He wanted to have an opportunity to talk to the Commissioner, but he couldn't be here today, and he expects it •• you know, he wants it to go to the floor, but he'd rather that way. So would you amend that motion?

LEG. VILORIA•FISHER:

I will make that motion.

CHAIRMAN BINDER:

Motion to discharge without recommendation by Legislator Viloría•Fisher, seconded by Legislator Foley.

LEG. FOLEY:

Sure.

CHAIRMAN BINDER:

Okay. 1885 motion to approve **approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

I'm going to make a motion to reconsider **1881**, _***_ seconded by Legislator Kennedy. All in favor? Opposed? 1881 is before us. I'm going to make a motion to discharge without recommendation.

LEG. KENNEDY:

Second.

CHAIRMAN BINDER:

Seconded by Legislator Kennedy.

LEG. FOLEY:

Just on the motion. The reasons the Presiding Officer wishes to have this discharged without recommendation as opposed to approval?

CHAIRMAN BINDER:

He said just because he wanted time to have a conversation with the Commissioner, but he didn't want it on •• • so it could be passed.

LEG. FOLEY:

If I May, Mr. Chair to the Commissioner. Has the Presiding Officer spoke with you about this project? I mean, the most recent •• this has been in the works for years, and we have approved several resolutions regarding this intersection over a period of time to realign it for safety reasons and other reasons. Has he relayed to you what his most recent concerns are?

COMMISSIONER BARTHA:

Not recently, but I have been Hauppauge all day today.

CHAIRMAN BINDER:

I don't think it's his intention to have this fail or anything. He didn't want to •• he was hoping that it would just come without recommendation so he could have an opportunity.

LEG. KENNEDY:

Second.

CHAIRMAN BINDER:

I think I made the motion, seconded by Legislator Kennedy, and I'll going to have to hold off for a monment, because we lack a quorum.

LEG. VILORIA • FISHER:

Sorry.

CHAIRMAN BINDER:

No problem. We have a motion and a second. All in favor? Opposed? 1881 is **discharged without recommendation. (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).** Okay.

1894, appropriating funds in connection with the reconstruction of CR 58, Old Country Road, Town of Riverhead. Motion by Legislator Kennedy, seconded by myself. All those in favor? Opposed? 1894 is **approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis.**

Carpenter).

1912, amending the 2005 Operating Budget to centralize building security within the Suffolk County Department of Public Works in conformity with the new Title Examiner Policy at the County Clerk's Office. Motion by Legislator ••

LEG. VILORIA • FISHER:

I have no idea what this is.

LEG. FOLEY:

Let's hear from the Clerk.

CHAIRMAN BINDER:

This is ••

LEG. FOLEY:

Explanation on this.

MR. ZWIRN:

I think everybody finally came on board with this one. It's with respect to the security policy at the Clerk's Office. We put the security under DPW because they're there, they're responsible now for accepting the money, and I think •• but I think the Clerk •• I don't know if Mr. Romaine testified on it today, but I think he's on board.

LEG. VILORIA • FISHER:

Okay.

CHAIRMAN BINDER:

We have a motion and a second. All in favor? Opposed? 1912 is **approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1928, amending the 2005 Capital Budget and Program and appropriating \$50,000 in funds for a feasibility study for noise abatement structures on CR 67, Motor Parkway from CR 7, Wicks Road to Washington Avenue. I don't know why this is all in capitals. I

don't know it's anything in particular.

MR. ZWIRN:

So they can read it better on the 12th Floor.

CHAIRMAN BINDER:

Right. We're at the end of the last of the agenda, right, we're dying here, you know, tired, eyes are weary.

LEG. FOLEY:

It's for after hearing from the Chairman for an hour to give us a whole historical overview of American History from Washington to Nixon. I mean, that covers a lot of ground.

CHAIRMAN BINDER:

Don't forget Levy.

MR. ZWIRN:

For the record.

CHAIRMAN BINDER:

I would like to make a motion to table, seconded by Legislator Kennedy.

MR. ZWIRN:

For the record, the County Executive, again, is opposing this for the same ••

CHAIRMAN BINDER:

Please, let's not do this again.

COMMISSIONER BARTHA:

Four million dollars a mile.

CHAIRMAN BINDER:

All those in •• you know, I'll tell you what. I have been here 16 years. We have fun anyway. You know, we do the business, we're doing the right ••

LEG. VILORIA • FISHER:

Motion to approve.

LEG. FOLEY:

Second.

CHAIRMAN BINDER:

Motion to approve by Legislator Viloría•Fisher, seconded by Legislator Foley. We have a motion to table and a second. All in favor? Opposed on the tabling motion?

LEG. VILORIA • FISHER:

Opposed.

LEG. FOLEY:

Opposed.

CHAIRMAN BINDER:

Opposed, Legislator Viloría•Fisher, Legislator Foley. Tabling motion is defeated. There is a motion to approve. All in favor? Opposed? I'm going to abstain, Legislator Kennedy abstains. 1928 is **defeated (VOTE:2•0•2•0) (Abstentions: Legis. Binder and Kennedy) (Not present: Legis. O'Leary and Carpenter)**

1933, amending the 2005 Capital Budget and Program and accepting and appropriating federal aid (80%), state aid (10%) and County pay•as•you•go funds(10%) in connection with the purchase and installation of bus shelters. I'm not going to through the whole thing.

LEG. FOLEY:

It's a committee bill.

LEG. KENNEDY:

Motion.

CHAIRMAN BINDER:

This is the replacement, it's pay•as•you•go. Motion by Legislator Kennedy, seconded by myself. All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

1934, amending the 2005 Capital Budget and Program and authorizing planning funds in connection with equipment for public transit vehicles • Automated Vehicle Locator System, accepting and appropriating federal aid (80%), state aid (10%) and County Pay•As•You•Go funds (10%). All in favor? Opposed? **Approved (4•0•0•2) (Not Present: Legis. O'Leary and Legis. Carpenter).**

That's it. Anything else to come before the committee? If not, I will make a motion to adjourn, seconded by Legislator Kennedy. All in favor? Opposed? We're adjourned.

(*THE MEETING WAS ADJOURNED AT 3:09 P.M.*)

_ _ **DENOTES BEING SPELLED PHONETICALLY**